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(pp. 785-790)

The American Ambassador in Japan (Grew) to the Japanese
Prime Minister and Minister for Foreign Affairs (Prince Konoye)

No. 1076

TOKYO, October 6, 1938

EXCELLENCY: On the occasion of the interview which Your Excellency accorded me on October 3, when I had the honor to convey orally the views and desires of my Government with regard to conditions in China being brought about by agencies or representatives of the Japanese Government, which are violative of or prejudicial to American rights and interests in China, I undertook to set forth and to extend those views and desires in a note to be presented shortly thereafter. In fulfillment of that undertaking and under instruction from my Government, I now have the honor to address Your Excellency as follows:

The Government of the United States has had frequent occasion to make representations to Your Excellency's Government in regard to action taken and policies carried out in China under Japanese to which the Government of the United States takes exception as being, in its opinion, in contravention of the principle and the condition of equality of opportunity or the "open door" in China. In response to these representations, and in other connections, both public and private, the Japanese Government has given categorical assurances that equality of opportunity or the open door in China will be maintained. The Government of the United States is constrained to observe, however, that notwithstanding the assurances of the Japanese Government in this regard violation by Japanese agencies of American rights and interests has persisted.

As having by way of illustration a bearing on the situation to which the Government of the United States desires to invite the attention of the Japanese Government, it is recalled that at the time of the Japanese occupation of Manchuria the Japanese Government gave assurances that the open door in Manchuria would be maintained. However, the principal economic activities in that area have been taken over by special companies which are controlled by Japanese nationals and which are established under special charters according them a preferred or exclusive position. A large part of American enterprise which formerly operated in Manchuria has been forced to withdraw from that territory as a result of the preferences in force there. Arrangements between Japan and the regime now functioning in Manchuria allow the free movement of goods and funds between Manchuria and Japan while restricting rigidly the movement of goods and funds between Manchuria and countries other than Japan.

This channeling of the movement of goods is effected primarily by means of exchange control exercised under the authority of regulations issued under an enabling law which provide expressly that for the purposes of the law Japan shall not be considered a foreign country nor the Japanese yen a foreign currency. In the opinion of my Government equality of opportunity or open door has virtually ceased to exist in Manchuria notwithstanding the assurances of the Japanese Government that it would be maintained in that area.

The Government of the United States is now apprehensive lest there develop in other areas of China which have been occupied by Japanese military forces since the beginning of the present hostilities a situation similar in its adverse effect upon the competitive position of American business to that which now exists in Manchuria.

On April 12, 1938, I had occasion to invite the attention of Your Excellency's predecessor to reports which had reached the Government of the United States indicating that discrimination in favor of Japanese trade with North China was likewise to be by means of exchange control and to ask for assurances that the Japanese Government would not support or countenance financial measures discriminating against American interests. Although the Minister for Foreign Affairs stated then that the Japanese Government would continue to support the principle of equal opportunity or open door in China no specific reply has yet been made by the Japanese Government on the subject of these representations.

The Government of the United States now learns that the Japanese authorities at Tsingtao have in effect established an exchange control, that they are exercising a discretionary authority to prohibit exports unless export bills are sold to the Yokohama Specie Bank, and that the Bank refuses to purchase export bills except at an arbitrary rate far lower than the open market rate prevailing at Tientsin and Shanghai. A somewhat similar situation apparently prevails at Chefoo. Furthermore, reports continue to reach the American Government that a comprehensive system of exchange control will soon be established throughout North China. Control of foreign exchange transactions gives control of trade and commercial enterprise, and the exacting, either directly or indirectly, by the Japanese authorities of control of exchange in North China would place those authorities in position to thwart equality of opportunity or free competition between Japan and the United States in that area. In such a situation, imports from and exports to the United States, as well as the choice of dealers in North China,

would be entirely subjected to the dispensation of the Japanese authorities. Notwithstanding the short time that exchange control has been enforced in Tsingtao, two cases of discrimination have already been brought to the attention of the Government of the United States. In one instance an American dealer in a staple commodity has been unable to export to the United States because Japanese authorities there have insisted that his export bills be sold to a Japanese bank at a price so far below the current rate of exchange of the Chinese currency in the open market that such transaction would involve a loss rather than a profit; but a Japanese competitor recently completed a large shipment invoiced at a price in United States dollars which was equivalent to the local market price calculated at the current open market rate. In other instance, an American firm was prevented from purchasing tobacco in Shantung unless it should purchase so-called Federal Reserve notes or yen currency with foreign money and at an arbitrary and low rate of exchange, conditions not imposed upon the company's Japanese or Chinese competitors.

The Government of the United States has already pointed out to the Japanese Government that alterations of the Chinese customs tariff by the regimes functioning in those portions of China occupied by Japanese armed forces and for which the Japanese Government has formally assured its support are arbitrary and illegal assumptions of authority for which the Japanese Government has an inescapable responsibility. It is hardly necessary to add that there can be no equality of opportunity or open door in China so long as the ultimate authority to regulate, tax, or prohibit trade is exercised, whether directly or indirectly, by the authorities of one "foreign" power in furtherance of the interests of that power. It would appear to be self-evident that a fundamental prerequisite of a condition of equality of opportunity or open door in China is the absence in the economic life of that country of preferences or monopolistic rights operating directly or indirectly in favor of any foreign country or its nationals. On July 4 I spoke to General Ugaki of the desire of the American Government that there be avoided such restrictions and obstacles to American trade and other enterprises as might result from the setting up of special companies and monopolies in China. The Minister was so good as to state that the open door in China would be maintained and that the Government of the United States might rest assured that the Japanese Government would fully respect the principle of equal opportunity.

Notwithstanding these assurances, the Provisional regime in Peiping announced on July 30th the inauguration as of the following day of the China Telephone and Telegraph Company, the reported purpose of this organization being to control and to have exclusive operation of telephone and telegraph communications in North China. There was organized in Shanghai on July 31st the Central China Telecommunications Company, and

the Special Service Section of the Japanese army has informed foreign cable and telegraph companies that the new company proposes to control all the telecommunications in Central China. According to a semi-official Japanese press report, there was organized at Shanghai on July 28 the Shanghai Inland Navigation Steamship Company to be controlled by Japanese the reported object of which is to control water transportation in the Shanghai delta area. According to information which has reached my Government, a Japanese company has been organized to take over and operate the wharves at Tsingtao which have hitherto been publicly owned and operated. Should such a development occur, all shipping of whatever nationality would become dependent upon a Japanese agency for allotments of space and stevedoring facilities. The wool trade in North China is now reported to be a Japanese monopoly and a tobacco monopoly in that area is reported to be in process of formation. Moreover, according to numerous reports which have been reaching my Government, the Japanese Government is proceeding with the organization of two special promotion companies which it has chartered and which it will control with the object of investing in, unifying, and regulating the administration of certain large sectors of economic enterprise in China.

The developments of which I have made mention are illustrative of the apparent trend of Japanese policy in China and indicate clearly that the Japanese authorities are seeking to establish in areas which have come under Japanese military occupation general preferences for, and superiority of, Japanese interests, in inevitable effect of which will be to frustrate the practical application of the principle of the open door and deprive American nationals of equal opportunity.

I desire also to call Your Excellency's attention to the fact that unwarranted restrictions placed by the Japanese military authorities upon American nationals in China--notwithstanding the existence of American treaty rights in China and the repeated assurances of the Japanese Government that steps had been taken which would insure that American nationals, interests and property would not be subject to unlawful interference by Japanese authorities--further subject American interests to continuing serious inconvenience and hardships. Reference is made especially to the restrictions placed by the Japanese military upon American nationals who desire to reenter and reoccupy properties from which they have been driven by the hostilities and of which the Japanese military have been or still are in occupation. Mention may also be made of the Japanese censorship of and interference with American mail and telegrams at Shanghai and of restrictions upon freedom of trade, residence and travel by Americans

including the use of railways, shipping, and other facilities. While Japanese merchant vessels are carrying Japanese merchandise between Shanghai and Nanking, those vessels decline to carry merchandise of other countries, and American and other non-Japanese shipping is excluded from the lower Yangtze on the grounds of military necessity. Applications by American nationals for passes which would allow them to return to certain areas in the lower Yangtze valley have been denied by the Japanese authorities on the ground that peace and order have not been sufficiently restored, although many Japanese merchants and their families are known to be in those areas.

American nationals and their interests have suffered serious losses in the Far East arising from causes directly attributable to the present conflict between Japan and China, and even under the most favorable conditions an early rehabilitation of American trade with China cannot be expected. The American Government, therefore, finds it all the more difficult to reconcile itself to a situation in which American nationals must contend with continuing unwarranted interference with their rights at the hands of the Japanese authorities in China and with Japanese actions and policies which operate to deprive American trade and enterprise of equality of opportunity in China. It is also pertinent to mention that in Japan, too, American trade and other interests are undergoing severe hardships as a result of the industrial, trade, exchange and other controls which the Japanese Government has imposed incident to its military operations in China.

While American interests in the Far East have been thus treated at the hands of the Japanese authorities, the Government of the United States has not sought either in its own territory or in the territory of third countries to establish or influence the establishment of embargoes, import prohibitions, exchange controls, preferential restrictions, monopolies or special companies--designed to eliminate or having the effect of eliminating Japanese trade and enterprise. In its treatment of Japanese nationals and their trade and enterprise, the American Government has been guided not only by the letter and spirit of the Japanese-American Commercial Treaty of 1911 but by those fundamental principles of international law and order which have formed the basis of its policy in regard to all peoples and their interests; and Japanese commerce and enterprise have continued to enjoy in the United States equality of opportunity.

Your Excellency cannot fail to recognize the existence of a great and growing disparity between the treatment accorded American nationals and their trade and enterprise by Japanese authorities in China and Japan and the treatment accorded Japanese nationals and their trade and enterprise by the Government of the United States in areas within its jurisdiction.

In the light of the situation herein reviewed the Government of the United States asks that the Japanese Government implement its assurances already given with regard to the maintenance of the open door and to non-interference with American rights by taking prompt and effective measures to cause,

(1) The discontinuance of discriminatory exchange control and of other measures imposed in areas in China under Japanese control which operate either directly or indirectly to discriminate against American trade and enterprise;

(2) The discontinuance of any monopoly or of any preference which would deprive American nationals of the right of undertaking any legitimate trade or industry in China or of any arrangement which might purport to establish in favor of Japanese interests any general superiority of rights with regard to commercial or economic development in any region of China; and

(3) The discontinuance of interference by Japanese authorities in China with American property and other rights including such forms of interference as censorship of American mail and telegrams and restrictions upon residence and travel by Americans and upon American trade and shipping.

The Government of the United States believes that in the interest of relations between the United States and Japan an early reply would be helpful.

I avail myself/etc..]

JOSEPH C. GREW

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(pp. 797-800)

The Japanese Minister for Foreign Affairs
(Arita) to the American Ambassador in
Japan (Grew)

[Translation]

No. 102, American I

[TOKYO] November 18, 1938

EXCELLENCY: I have the honor to inform Your Excellency that I have carefully perused the contents of Your Excellency's note no. 1076, dated October 6th, addressed to the then Minister for Foreign Affairs Prince Konoye, concerning the rights and interests of the United States in China.

In this note, Your Excellency sets forth, on the basis of information in the possession of the Government of the United States, various instances in which Japanese authorities are subjecting American citizens in China to discriminatory treatment and are violating the rights and interests of the United States.

The views held by the Japanese Government with regard to these instances may be stated as follows:

1. According to the information in the possession of the Imperial Government, the circumstances which led to the adoption of such measures as those at present enforced in Tsingtao concerning export exchange, and the present situation being as set forth below, it is believed that those measures cannot be construed as constituting any discrimination against American citizens.

A short time ago the Federal Reserve Bank of China was established in North China. This bank's notes, with foreign exchange value fixed at one shilling and two pence to one yuan, already have been issued to an amount of more than one hundred million yuan, and are being widely circulated. These bank notes being the legal currency required by the Provisional Government, the maintenance of their value and their smooth circulation is regarded as an indispensable basis for the conduct and development of economic activities in North China. Since the Japanese Government has therefore taken a cooperative attitude, all Japanese subjects are using those notes, and accordingly, even in their export trade are exchanging them at the rate of one shilling and two pence. On the other hand, the former legal currency still circulating in these areas has depreciated in exchange value to about eight pence per yuan. Consequently those who are engaged in export trade and are using this currency, are enjoying improper and excessive profits, as compared with those who are using Federal Reserve notes and carrying on legitimate transactions at the legally established rate of exchange. Japanese subjects and others who are using Federal Reserve notes have been suffering unreasonable and excessive losses as compared with those persons who use exclusively the former legal currency although residing and carrying on their businesses in the areas under the jurisdiction of the Provisional Government of North China. Furthermore, the existence of the above mentioned disparity between the foreign exchange value of the Federal Reserve notes and that of the former legal currency, which currency the Federal Reserve Bank has been and is exchanging at a rate almost on a par with its own notes, is bound to exert an unfavourable effect upon the exchange value of the Federal Reserve notes, and eventually also upon the exchange value of the Japanese yen. The Japanese Government therefore can not remain indifferent to such a situation.

In order to place the users of the former legal currency who have been obtaining improper and excessive profits on an equal footing with those using the Federal Reserve notes and at the same time to assist in the maintenance of the exchange value of the Federal Reserve Bank notes, represents an objective of those export exchange measures adopted at Tsingtao. Inasmuch as the application of the measures makes no differentiation according to nationality they are not at all discriminatory. As a matter of fact, it is through these measures that those users of the Federal Reserve notes who had in a sense been discriminated against have been placed on an equal footing with the others, and thus, for the first time on equal footing, are enabled to compete on an entirely equitable basis.

2. Some time ago the new regimes in North and Central China revised the Customs tariff rates seeking to secure a rational modification of the former tariff rates enforced by the Nationalist Government, because those rates were unduly high and not suitable for the promotion of the economic recovery and general welfare of the Chinese people. In any case, the schedule adopted is the one that was readily approved by the Powers in 1931, and was not calculated to inure to the benefit of any particular country. Accordingly no complaint has been heard from foreign residents of any nationality in China. The Japanese Government is, of course, in favour of the purpose of this revision and believes that it will serve to promote effectively the trade of all countries with China.

3. As for the organization of certain promotion companies in China, the restoration and development of China's economic, financial and industrial activities following the present incident is a matter of the most urgent necessity for the welfare of the Chinese people. Moreover, the Japanese Government, for the sake of the realization of a new order in East Asia, is exceedingly anxious for the prompt inauguration and progress of undertakings looking toward such restoration and development, and is devoting every constructive effort to realize this objective. The fact that the North China Development Company and the Central China Promotion Company were established represents nothing other than an offer to China of the necessary assistance for this restoration, and at the same time, an attempt to contribute to the development of the natural resources of China. It does not in any way impair the rights and interests of nationals of Your Excellency's country or in any way discriminate against their enterprises. The Japanese Government therefore, of course, has no intention of opposing, but rather welcomes heartily, the participation of third Powers which intend to cooperate on the basis of the new conditions.

The telecommunication companies in North and Central China, the inland navigation steamship company at Shanghai and the wharfage company at Tsingtao have also been established to meet the imperative need of an early restoration of communications, transportation, and harbor facilities which were destroyed as a result of the incident. It is proper that the telecommunications enterprise, not only because of its nature as a public utility but also in view of its relation to the maintenance of peace and order and to national defense, should be undertaken by special companies. However, all other enterprises being ordinary Chinese or Japanese juridical persons, do not have the objectives of discrimination against Your Excellency's country or third powers or of the gaining of monopolistic profits. As regards the wool trade, while the control of purchasing agencies was enforced in the Mongolian region, it now has been discontinued. There is at present no plan of any sort for the establishment of a tobacco monopoly.

4. Concerning the return of American citizens to the occupied areas, in North China there is no restriction on their returning, except in special cases where the personal safety of those who return would be endangered. Your Excellency is aware that in the Yangtze Valley large numbers of Americans have already returned. The fact that permission to return has not yet been made general is, as has been repeatedly communicated to Your Excellency, owing to considerations of the danger involved on account of order not yet being restored, or because of the impossibility of admitting nationals of third Powers on account of strategic necessities such as the preservation of military secrets. Further, the various restrictions enforced in the occupied areas concerning the residence, travel, enterprise and trade of American citizens, constitute the minimum regulations possible consistent with military necessities and the local conditions of peace and order. It is the intention of the Japanese Government to restore normal conditions as soon as circumstances permit.

5. The Japanese Government is surprised at the allegation that there exists a fundamental difference between the treatment accorded to Japanese in America and the treatment accorded to Americans in Japan. While it is true that in this period of emergency, Americans residing in this country are subject to various economic restrictions, these restrictions are, needless to say, imposed not upon Americans alone but also equally upon all foreigners as well as upon Japanese subjects. A statement of the views of the Japanese Government concerning the opinion as set forth in Your Excellency's note, regarding the treatment of Japanese subjects in American territory, is reserved for another occasion.

While the Japanese Government with the intention of fully respecting American rights and interests in China, as has been frequently stated above, has been making every effort in that direction in view of the fact that military operations on a scale unprecedented in our history are now being carried out in East Asia, I am of the opinion that the Government of Your Excellency's country also should recognize the fact that occasionally obstacles arise hindering the effecting of the intention of respecting the rights and interests of Your Excellency's country.

At present Japan, devoting its entire energy to the establishment of a new order based on genuine international justice throughout East Asia, is making rapid strides toward the attainment of this objective. The successful accomplishment of this purpose is not only indispensable to the existence of Japan, but also constitutes the very foundation of the enduring peace and stability of East Asia.

It is the firm conviction of the Japanese Government that now, at a time of the continuing development of new conditions in East Asia an attempt to apply to present and future conditions without any changes concepts and principles which were applicable to conditions prevailing before the present incident does not in any way contribute to the solution of immediate issues and further does not in the least promote the firm establishment of enduring peace in East Asia.

The Imperial Government, however, does not have any intention of objecting to the participation in the great work of the reconstruction of East Asia by Your Excellency's country or by other Powers in all fields of trade and industry, when such participation is undertaken with an understanding of the purport of the above stated remarks; and further, I believe that the regimes now being formed in China are also prepared to welcome such participation.

I avail myself [etc.]

HACHIRO ARITA

.(pp. 820-826)

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The American Ambassador in Japan (Grew) to
the Japanese Minister for Foreign Affairs (Arita)

No. 1153

TOKYO, December 30, 1938.

EXCELLENCY: Acting under the instructions of my Government I have the honor to address to Your Excellency the following note:

The Government of the United States has received and has given full consideration to the reply of the Japanese Government of November 18 to this Government's note of October 6 on the subject of American rights and interests in China.

In the light of facts and experience the Government of the United States is impelled to reaffirm its previously expressed opinion that imposition of restrictions upon the movements and activities of American nationals who are engaged in philanthropic, educational and commercial endeavors in China has placed and will, if continued, increasingly place Japanese interests in a preferred position and is, therefore, unquestionably discriminatory in its effect against legitimate American interests. Further, with reference to such matters as exchange control, compulsory currency circulation, tariff revision, and monopolistic promotion in certain areas of China the plans and practices of the Japanese authorities imply an assumption on the part of those authorities that the Japanese Government or the regimes established and maintained in China by Japanese armed forces are entitled to act in China in a capacity such as flows from rights of sovereignty and further in so acting to disregard and even to declare nonexistent or abrogated the established rights and interests of other countries including the United States.

The Government of the United States expresses its conviction that the restrictions and measures under reference not only are unjust and unwarranted but are counter to the provisions of several binding international agreements, voluntarily entered into, to which both Japan and the United States, and in some cases other countries, are parties.

In the concluding portion of its note under reference, the Japanese Government states that it is firmly convinced that "in the face of the new situation, fast developing in Asia, any attempt to apply to the conditions of today and tomorrow inapplicable ideas and principles of the past neither would contribute toward the establishment of a real peace in East Asia nor solve the immediate issues" and that "as long as these points are understood Japan has not the slightest inclination to oppose the participation of the United States and other Powers in the great work of reconstructing East Asia along all lines of industry and trade."

The Government of the United States in its note of October 6 requested, in view of the oft reiterated assurances proffered by the Government of Japan of its intention to observe the principles of equality of opportunity in its relations with China and in view of Japan's treaty obligations so to do, that the Government of Japan abide by these obligations and carry out these assurances in practice. The Japanese Government in its reply appears to affirm that it is its intention to make

its observance of that principle conditional upon an understanding by the American Government and by other governments of a "new situation" and a "new order" in the Far East as envisaged and fostered by Japanese authorities.

Treaties which bear upon the situation in the Far East have within them provisions relating to a number of subjects. In the making of those treaties, there was a process among the parties to them of give and take. Toward making possible the carrying out of some of their provisions, others among their provisions were formulated and agreed upon: toward gaining for itself the advantage of security in regard to certain matters, each of the parties committed itself to pledges of self-denial in regard to certain other matters. The various provisions agreed upon may be said to have constituted collectively an arrangement for safeguarding, for the benefit of all, the correlated principles on the one hand of national integrity and on the other hand of equality of economic opportunity. Experience has shown that impairment of the former of these principles is followed almost invariably by disregard of the latter. Whenever any government begins to exercise political authority in areas beyond the limits of its lawful jurisdiction there develops inevitably a situation in which the nationals of that government demand and are accorded at the hands of their government, preferred treatment, whereupon equality of opportunity ceases to exist and discriminatory practices, productive of friction prevail.

The admonition that enjoyment by the nationals of the United States of non-discriminatory treatment in China--a general and well established right--is henceforth to be contingent upon an admission by the Government of the United States of the validity of the conception of Japanese authorities of a "new situation" and a "new order" in East Asia, is, in the opinion of this Government, highly paradoxical.

This country's adherence to and its advocacy of the principle of equality of opportunity do not flow solely from a desire to obtain the commercial benefits which naturally result from the provisions of that principle. They flow from a firm conviction that observance of that principle leads to economic and political stability, which are conducive both to the internal well-being of nations and to mutually beneficial and peaceful relationships between and among nations; from a firm conviction that failure to observe that principle breeds international friction and ill-will, with consequences injurious to all countries, including in particular those countries which fail to observe it; and from an equally firm conviction that observance of that principle promotes the opening of trade channels thereby making available the markets, the raw materials and the manufactured products of the community of nations on a mutually and reciprocally beneficial basis.

The principle of equality of economic opportunity is, moreover, one to which over a long period and on many occasions the Japanese Government has given definite approval. It is one to the observance of which the Japanese Government has committed itself in various international agreements and understandings. It is one upon observance of which by other nations the Japanese Government has of its own accord and upon its own initiative frequently insisted. It is one to which the Japanese Government has repeatedly during recent months declared itself committed.

The people and the Government of the United States could not assent to the establishment at the instance of and for the special purposes of any third country of a regime which would arbitrarily deprive them of the long established rights of equal opportunity and fair treatment which are legally and justly theirs along with those of other nationals.

Fundamental principles such as the principle of equality of opportunity which have long been regarded as inherently wise and just which have been widely adopted and adhered to, and which are general in their application are not subject to nullification by a unilateral affirmation.

With regard to the implication in the Japanese Government's note that the "conditions of today and tomorrow" in the Far East call for a revision of the ideas and principles of the past, this Government desires to recall to the Japanese Government its position on the subject of revision of agreements.

This Government had occasion in the course of a communication delivered to the Japanese Government on April 29, 1934, to express its opinion that "treaties can lawfully be modified or be terminated,--but only by processes prescribed or recognized or agreed upon by the parties to them".⁴⁰

In the same communication this Government also said, "In the opinion of the American people and the American Government, no nation can, without the assent of the other nations concerned, rightfully endeavor to make conclusive its will in situations where there are involved the rights, the obligations and the legitimate interests of other sovereign states". In an official and public statement on July 16, 1937, the Secretary of State of the United States declared that this Government advocates "adjustment of problems in international relations by processes of peaceful negotiation and agreement".

⁴⁰ See telegram No. 59, Apr. 28, 1934, to the Ambassador in Japan, p. 231.

At various times during recent decades various powers, among which have been Japan and the United States, have had occasion to communicate and to confer with regard to situations and problems in the Far East. In the conducting of correspondence and of conferences relating to these matters, the parties involved have invariably taken into consideration past and present facts and they have not failed to perceive the possibility and the desirability of changes in the situation. In the making of treaties they have drawn up and have agreed upon provisions intended to facilitate advantageous developments and at the same time to obviate and avert the arising of friction between and among the various powers which, having interests in the region or regions under reference, were and would be concerned.

In the light of these facts, and with reference especially to the purpose and the character of the treaty provisions from time to time solemnly agreed upon for the very definite purposes indicated, the Government of the United States deprecates the fact that one of the parties to these agreements has chosen to embark--as indicated both by action of its agents and by official statements of its authorities--upon a course directed toward the arbitrary creation by that power by methods of its own selection, regardless of treaty pledges and the established rights of other powers concerned, of a "new order" in the Far East. Whatever may be the changes which have taken place in the situation in the Far East and whatever may be the situation now, these matters are of no less interest and concern to the American Government than have been the situations which have prevailed there in the past, and such changes as may henceforth take place there, changes which may enter into the producing of a "new situation" and a "new order", are and will be like concern to this Government. This Government is well aware that the situation has changed. This Government is also well aware that many of the changes have been brought about by the action of Japan. This Government does not admit, however, that there is need or warrant for any one Power to take upon itself to prescribe what shall be the terms and conditions of a "new order" in areas not under its sovereignty and to constitute itself the repository of authority and the agent of destiny in regard thereto.

It is known to all the world that various of the parties to treaties concluded for the purpose of regulating contacts in the Far East and avoiding friction therein and therefrom--which treaties contained, for those purposes, various restrictive provisions--have from time to time and by processes of negotiation and agreement contributed in the light of changed situations toward the removal of restrictions and toward the bringing about of further developments which would warrant in the light of further changes in the situation, further removals of restrictions. By such methods and processes, early restrictions upon the tariff autonomy of all countries in the Far

East were removed. By such methods and processes the rights of extraterritorial jurisdiction once enjoyed by Occidental countries in relations with countries in the Far East have been given up in relations with all of those countries except China; and in the years immediately preceding and including the year 1931, countries which still possessed those rights in China including the United States were actively engaged in negotiations--far advanced--looking toward surrender of those rights. All discerning and impartial observers have realized that the United States and others of the "treaty powers" have not during recent decades clung tenaciously to their so-called "special" rights and privileges in countries of the Far East but on the contrary have steadily encouraged the development in those countries of institutions and practices in the presence of which such rights and privileges may safely and readily be given up; and all observers have seen those rights and privileges gradually being surrendered voluntarily through agreement by the Powers which have possessed them. On one point only has the Government of the United States, along with several other governments, insisted: namely, that new situations must have developed to a point warranting the removal of "special" safeguarding restrictions and that the removals be effected by orderly processes.

The Government of the United States has at all times regarded agreements as susceptible of alteration, but it has always insisted that alterations can rightfully be made only by orderly processes of negotiation and agreement among the parties thereto.

The Japanese Government has upon numerous occasions expressed itself as holding similar views.

The United States has in its international relations rights and obligations which derive from international law and rights and obligations which rest upon treaty provisions. Of those which rest on treaty provisions, its rights and obligations in and with regard to China rest in part upon provisions in treaties between the United States and China and in part on provisions in treaties between the United States and several other powers including both China and Japan. These treaties were concluded in good faith for the purpose of safeguarding and promoting the interests not of one only but of all of their signatories. The people and the Government of the United States cannot assent to the abrogation of any of this country's rights or obligations by the arbitrary action of agents or authorities of any other country.

The Government of the United States has, however, always been prepared and is now prepared to give due and ample consideration to any proposals based on justice and reason which envisage the resolving of problems in a manner duly considerate of the rights and obligations of all parties directly concerned by processes of free negotiation and new commitment by and among

all of the parties so concerned. There has been and there continues to be opportunity for the Japanese Government to put forward such proposals. This Government has been and it continues to be willing to discuss such proposals, if and when put forward, with representatives of the other powers, including Japan and China, whose rights and interests are involved, at whatever time and in whatever place may be commonly agreed upon.

Meanwhile, this Government reserves all rights of the United States as they exist and does not give assent to any impairment of any of those rights.

I avail myself [etc.]

JOSEPH C. GREW